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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,002	02/20/2002	Gordon D. Blacklock	02-004	4733
7590	08/23/2004		EXAMINER	
Sonya C. Harris PO Box 2607 Fairfax, VA 22031			LEWIS, RALPH A	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/078,002	<b>Applicant(s)</b> BLACKLOCK, GORDON D.	
	<b>Examiner</b> Ralph A. Lewis	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/20/2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Rejections based on 35 U.S.C. 112, second paragraph**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 5, 6 and 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the preamble calls for a "kit" yet the body of the claim positively recites only a single element for the kit a "guide block." A single item is an unreasonable distortion of the term "kit." Additionally, claim 1 fails to reasonably set forth sufficient structure that is necessary and critical for accomplishing the conclusionary functional limitation of "thereby enabling the practitioner to use a single guide block to position, at any of a variety of angles, the drill for a dental implant intended for a specific position in the mouth without repositioning the guide block." More particularly, the claim lacks the critical oriented relationship between channels necessary for accomplishing the claimed function.

In claim 2, it is unclear as to whether the claimed "kit" comprises the "said single stent."

In claim 6, line 3, "said" is misspelled.

In claim 9, line 5, there is no antecedent basis for "said drilling guide."

In claim 10, lines 6 and 10, it is unclear how the "first guide hole" and the "secondary guide hole" relate to the "plurality of guide holes" of parent claim 9. Dependent claims must reasonably relate back to the claims from which they depend.

In claim 11, lines 6 and 8, it is unclear how the "first bore" and the "secondary bore" relate to the "plurality of guide holes" of parent claim 9. Dependent claims must reasonably relate back to the claims from which they depend.

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Dahl et al (US 5,306,278).

Dahl et al disclose a guide block 12 having a plurality of drill guide channels extending therethrough to a specific position. Dahl et al does not disclose the use of the device on a patient's jaw, however, does indicate that the guide channels have a diameter of about .122 inches (column 2, line 63) which suggests that the guide block is of a size which is capable of being mounted on a patient's jaw (at least the forward part of the jaw) and capable of being used for guiding a drill for a dental implant. In regard to the unclaimed and undefined stent of claim 1, the Dahl et al device is capable of receiving a single stent-like member.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl et al (US 5,306,278) in view of Slivenko (US 4,325,373), Fenick (US 5,015,183) and Pompa (US 5,320,529).

Assuming that the present claims are interpreted as requiring the "stent" as part of the "kit," then one of ordinary skill in the art would have readily recognized the wide use of drill bushings (i.e. applicant's claimed "stent") in drill guide blocks as evidenced by Slivenko et al 76, Fenick 30 and Pompa 25a to help guide the drill bit into position through the guide block. To have used conventional drill bushings with Dahl et al guide block to help guide the drill bit into position as taught by Slivenko, Fenick and Pompa would have been obvious to one of ordinary skill in the art.

#### **Allowable Subject Matter**

Claim 4 is allowed.

Claims 5 and 9-11 would be allowable if rewritten to overcome the rejections based on 35 U.S.C. 112, second paragraph above and rewritten to include all the limitations of any claims from which they may depend.

### **Response to Applicant's Remarks**

The examiner is in general agreement with applicant's remarks. While overcoming the prior art rejection of record, applicant's response failed to address the other prior art made of record in the Office Action.

### **Action Made Final**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(703) 308-0770**. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R.Lewis  
August 18, 2004

A handwritten signature in black ink, appearing to be 'R. Lewis', with a stylized flourish at the end.

Ralph A. Lewis  
Primary Examiner  
Au 3732